



U.S. Department
of Transportation

**Maritime
Administration**

Deputy Administrator

400 Seventh St., S.W.
Washington, D.C. 20590

November 28, 2001

Mr. Su Xingang
Director General
Department of Water Transport
Ministry of Communications
11 Jianguomennei Avenue
Beijing, People's Republic of China

Dear Mr. Su:

I am responding to your letter to the U.S. Embassy in Beijing of October 9, 2001. I also refer to conversations in recent months between the Embassy and your government on maritime issues.

I believe it is important at the outset to stress that the primary objective of my government in maritime relations with China is to assure U.S. maritime companies the same liberal market access in China that Chinese carriers routinely enjoy in the United States. For this objective to be achieved, your government will have to end the discriminatory restrictions and regulations that it has imposed on U.S. and other non-Chinese companies for many years. The main restrictions that are known to affect U.S. carriers in China include the following measures, in summary form:

- China subjects U.S. carriers' vessels to a prior approval requirement for calls at its ports.
- U.S. carriers are essentially prevented from opening new branch offices due to bureaucratic and geographic restrictions by Chinese authorities.
- China excludes U.S. companies from the vessel agency business, forcing them to rely on the costly services of their Chinese competitors.
- China, by law and regulation, prevents U.S. carriers from offering a full range of logistics services to shippers in China.

Eliminating these barriers would clear away major impediments to conclusion of a new bilateral maritime agreement.

I understand from your letter and from earlier contacts with your government that your authorities are drafting modifications to China's laws and regulations in connection with its membership in the World Trade Organization. These revisions will be of particular importance if China takes advantage of this opportunity to open up its maritime sector, as I have suggested above. As our Embassy has informed the Ministry of Communications, we would welcome the opportunity to comment on the proposed changes in these laws and regulations that would apply to maritime transport services, as they are likely to affect our carriers and those who use their services in China. Moreover, public discussion of the drafts will enable you to gain useful input and analysis from the international shipping and trading community.

In this connection I would like to raise recent press reports that your government has announced measures with regard to certain port fees and other matters. According to these sources, China intends to revise its foreign trade port fees, including a 15 percent increase in container handling fees to become effective January 1, 2002. Other fee increases are reported to include tugboat and berth fees, which will rise 5 percent and 15 percent, respectively. In addition, demurrage and dispatch arrangements for liner cargo would reportedly be cancelled. According to the same sources, the Chinese agencies responsible for these changes are the Ministry of Communications and the State Planning and Development Commission. I would appreciate clarification from your government on these reports of changes in port charges.

With respect to the Controlled Carrier Act, I disagree with the claim that it is discriminatory. Congress enacted the law to address issues surrounding shipping lines operating in the U.S. liner trade that are owned and/or controlled by foreign governments. Congress concluded that the support such carriers enjoy from their governments allows them to act in a manner that is not consistent with normal profit-and-loss disciplines that govern the activities of privately owned carriers. On more than one occasion, Chinese carriers have made investments in the shipping business on a scale that no privately owned carrier could undertake. The most recent example of this behavior is the Chinese carrier, China Shipping Group, which a few years after its entry into the world's liner trades has become a major force in the international liner industry in the United States.

I do not dispute China's ability to choose how it organizes its economy. I believe, however, that the involvement of state-owned companies in competition with private companies is inconsistent with market principles. It is only natural that the United States would take action to protect the free interaction of market forces in liner shipping from the impact of such companies' operations. The need for the Controlled Carrier Act remains strong today. In my judgement, it is highly unlikely to be repealed or weakened. However, the Federal Maritime Commission, which enforces the Act, has shown willingness to provide limited relief from some procedural requirements of the law when it believes such relief is warranted. For its part, the Maritime Administration has been in a position to support such action, when it is justified by the behavior of your government and your carriers.

My government hopes that the legislative and regulatory revision process now underway in China will produce a maritime sector that is free of the impediments that have impaired its efficiency up to now. With such result as a basis, we should be able to negotiate a new maritime agreement that reflects the aims of both China and the United States. When we have a more concrete understanding of the content of the revisions that you propose, we can explore together the opening of negotiations on a new agreement. Unlike the informal, exploratory talks in Seattle, negotiations should achieve results that make clear that China shares our commitment to an open and liberal maritime relationship.

Sincerely,

A handwritten signature in dark ink, appearing to read "Bruce Carlton", with a stylized flourish at the end.

Bruce J. Carlton
Acting Deputy Maritime Administrator